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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,415	07/31/2003	Tuyethoa T. Trinh	10-9404	7510

7590 03/29/2005

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EXAMINER	
STULTZ, JESSICA T	

ART UNIT	PAPER NUMBER
2873	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H·A

Office Action Summary	Application No.	Applicant(s)	
	10/632,415	TRINH ET AL.	
	Examiner	Art Unit	
	Jessica T. Stultz	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Examiner's Comments

For applicant's information, the amendments to the specification filed January 21, 2005 overcome the previous objection to the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 6-10, 12-15, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Polster.

Regarding claim 1, Polster discloses a method of dip coating optical elements comprising (Abstract, wherein the apparatus treats lenses by dip coating): dipping an optical element into a coating solution bath (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is dipped into the bath using support arms "50", Figures 2 and 6); withdrawing the optical element from the coating solution bath (Column 8, lines 26-58, wherein the optical article is removed from the bath "21" using support arms "50", Figures 2 and 6); and creating a meniscus between the optical element and the coating solution bath when the optical element is otherwise located above the coating solution bath (Shown in Figures 2 and 6, wherein the optical article is located above bath "21") so as to allow capillary forces to wick off a desired amount of coating solution from the optical element (Column 8, lines

26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, Figures 2 and 6).

Regarding claim 2, Polster it is inherent that the meniscus is created when the distance between the coating solution bath and the optical element is approximately 2 millimeters this being reasonably based upon Polster discloses incremental steps of the dipping process ranging between 0.0001 inches to 0.025 inches, wherein a meniscus is formed during the dipping process, and therefore the meniscus is formed within the range of 2 mm (0.078 inches) (Column 8, lines 26-58).

Regarding claims 6 and 12, it is inherent from Polster that the meniscus is maintained from between 10 seconds to 1 minutes, this being reasonably based upon the small steps ranging between 0.001 to 0.025 inches, which would cause the meniscus to remain for at least 10 seconds (Column 8, lines 26-58).

Regarding claim 8, Polster further discloses washing the optical element prior to dipping (Column 3, line 62-Column 4, line 24, wherein one of the treatment bathes include a rinsing solution).

Regarding claim 9, Polster discloses a method of coating an eye element comprising (Abstract, wherein the apparatus treats lenses by dip coating): introducing the eye element into a coating solution (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is dipped into the bath using support arms "50", Figures 2 and 6); initiating a separation of the eye element from the coating solution (Column 8, lines 26-58, wherein the optical article is removed from the bath "21" using support arms "50", Figures 2 and 6); maintaining a touching of a bottom portion of the eye element with the coating solution for a

predetermined period of time sufficient to effect a wicking of excess solution from the element (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, wherein the lens is removed from the solution by steps to wick off the excess solution, Figures 2 and 6); and terminating the touching after the predetermined time (Column 8, lines 26-58, wherein a quick jump is made to break the meniscus off the material at the end of the treatment). Regardless, when removing the eye element from the coating solution there will inherently be a predetermined period of time that there will be maintained a touching of a bottom portion of the eye element with the coating solution.

Regarding claim 10, Polster further discloses the touching the bottom portion of the eye element with the coating solution creates a meniscus (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus, Figures 2 and 6).

Regarding claims 7 and 13, Polster further discloses curing the coating solution (Column 3, line 63-Column 4, line 67, wherein the chambers include a hard coating, i.e. curing, solution).

Regarding claim 14, Polster discloses an eye lens comprising (Abstract, wherein the apparatus treats lenses by dip coating): a lens substrate (Column 8, lines 26-58, wherein the optical article is a lens); a coating on the lens substrate, the coating having been applied with a dip coating method (Column 8, lines 26-58, wherein the dip coating method is described using arms "50" into treatment bath "21", Figures 2 and 6); and the lens substrate with the coating being free of a visually observable light wedge (Column 8, lines 26-58, wherein a quick jump is made to break the meniscus off the material at the end of the treatment while maintaining a

uniform gradient on the lens) due to the coating solution being wicked from an edge of the lens substrate through a meniscus created between the coating solution and the edge of the lens substrate at the conclusion of the dip coating method (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, wherein the lens is removed from the solution by steps to wick off the excess solution, Figures 2 and 6).

Regarding claim 15, Polster further discloses an eye lens wherein the dip coating method comprises: dipping an optical element into a coating (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is dipped into the bath using support arms "50", Figures 2 and 6): withdrawing the optical element from the coating solution (Column 8, lines 26-58, wherein the optical article is removed from the bath "21" using support arms "50", Figures 2 and 6); and creating a meniscus between the optical element and the coating solution so as to allow capillary forces to wick off a desired amount of the coating solution from the optical lens (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, Figures 2 and 6).

Regarding claim 18, Polster discloses a method of dip coating optical elements comprising (Abstract, wherein the apparatus treats lenses by dip coating): dipping an optical element into a coating solution so that the entire element is below a surface of the bath (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is dipped into the bath using support arms "50", Figures 2 and 6); elevating the optical element above the surface of the bath (Column 8, lines 26-58, wherein the optical article

is elevated above the bath "21" and is removed from the bath "21" using support arms "50", Figures 2 and 6) except for the formation of a meniscus between the bath and the optical element (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, wherein the lens is removed from the solution by steps to wick off the excess solution, Figures 2 and 6); holding the element at the desired elevation for a predetermined period of time sufficient to effect a wicking of excess solution from the element to the bath through the meniscus (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, wherein the lens is removed from the solution by steps to wick off the excess solution, Figures 2 and 6); and removing the optical element from the bath thereby breaking the meniscus (Column 8, lines 26-58, wherein a quick jump is made to break the meniscus off the material at the end of the treatment).

Regarding claim 19, Polster further discloses that the step of elevating the optical element above the surface of the bath comprises raising the optical element above the surface of the bath (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is raised from the bath using support arms "50", Figures 2-3 and 6).

Regarding claims 20-21, Polster further discloses that the step of elevating the optical element above the surface of the bath comprises draining the bath, thereby lowering the surface of the bath below the optical element (Abstract, wherein the apparatus has specific draining devices to drain the bath as desired, Figures 2 and 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-4 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Polster in view of Kamada et al.

Regarding claim 3-4 and 11, Polster discloses a method of coating an optical element as disclosed above, but does not specifically disclose that the viscosity of the coating solution is between 1 cPs and 20 cPs or that the temperature of the solution is between 30 and 90 degrees Fahrenheit. Kamada teaches of coating a lens blank (Column 19, line 62-Column 20, line 58) wherein the coating solution has a viscosity and temperature within the claimed ranges (Column 3, line 18-Column 5, line 17, wherein the viscosity of the monomer in the coating is less than 20 cPs at 20 degrees Celsius) for the purpose of forming a hardened film on a lens blank (Column 19, line 62-Column 20, line 58). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the viscosity of the coating solution to be between 1 cPs and 20 cPs and that the temperature of the solution is between 30 and 90 degrees Fahrenheit since Kamada teaches of coating a lens blank wherein the coating solution has a viscosity and temperature within the claimed ranges for the purpose of forming a hardened film on a lens blank.

Claims 5 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polster.

Regarding claim 5, Polster discloses a method of dip coating optical elements as disclosed above, but does not specifically disclose that withdrawing the solution proceeds at a speed between approximately 1.5 to 3 inches per second. However Polster further teaches that the speed of withdrawal of the lens from the coating solutions can be changed for the purpose of meeting the gradient specifications of the desired end product (Column 9, line 17-Column 10, line 62, wherein the gradient of the lens, darkness, color, etc is controlled by a control system, which controls the speed of the dipping process, Figure 9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the method of dip coating optical elements of Polster to further include the step of withdrawing the solution proceeding at a speed between approximately 1.5 to 3 inches per second since Polster further teaches that the speed of withdrawal of the lens from the coating solutions can be changed for the purpose of meeting the gradient specifications of the desired end product.

Regarding claim 16, Polster discloses an eye lens comprising (Abstract, wherein the apparatus treats lenses by dip coating): a lens substrate (Column 8, lines 26-58, wherein the optical article is a lens); a coating on the substrate, the coating having been applied by dip coating (Column 8, lines 26-58, wherein the dip coating method is described using arms "50" into treatment bath "21", Figures 2 and 6); but does not specifically disclose that the coating has a visible light transmission differential from a top to a bottom of the lens substrate of approximately 1.5 %. However, Polster further teaches that the tinting of the lens is applied in a gradient manner which is controlled by the control system for the purpose of providing any tint, and therefore transmission, gradient on the lens surface as needed (Column 9, line 17-Column 10, line 62, wherein the gradient of the lens, darkness, color, etc is controlled by a control

system, Figure 9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the coating to have a visible light transmission differential from a top to a bottom of the lens substrate of approximately 1.5 % since Polster further teaches that the tinting of the lens is applied in a gradient manner which is controlled by the control system for the purpose of providing any tint, and therefore transmission, gradient on the lens surface as needed.

Regarding claim 17, Polster further discloses an eye lens wherein the dip coating method comprises: dipping an optical element into a coating (Column 5, lines 37-55 and Column 8, lines 26-58, wherein the coating solution bath is "21" and the optical article is dipped into the bath using support arms "50", Figures 2 and 6): withdrawing the optical element from the coating solution (Column 8, lines 26-58, wherein the optical article is removed from the bath "21" using support arms "50", Figures 2 and 6); and creating a meniscus between the optical element and the coating solution so as to allow capillary forces to wick off a desired amount of the coating solution from the optical lens (Column 8, lines 26-58, wherein the dipping process is described wherein the article is incrementally raised to form a meniscus in order to form a uniform gradient coating on the lens, Figures 2 and 6).

Response to Arguments

Applicant's arguments filed January 21, 2005 have been fully considered but they are not persuasive. Specifically, applicant argues that Polster does not disclose a method, which allows capillary forces to wick off a desired amount of coating solution from the optical element wherein a meniscus is formed at the edge of the lens at the conclusion of the dip coating process. However, Polster discloses that the article is raised out of the bath by a series of steps to break

off a meniscus, thereby showing that a meniscus is indeed formed and is broken after a predetermined period of time during a series of steps, thereby performing the necessary wicking of the solution (Column 8, lines 26-58). Applicant argues that since Polster is performing the incremental removal to form a uniform gradient that the incremental removal would not also form a meniscus and wick off a desired amount of the solution. However, the formation of a meniscus and the wicking of the solution occur as well through the incremental removal of the optical element from the bath, even if it is not the intended purpose of the incremental removal.

Conclusion

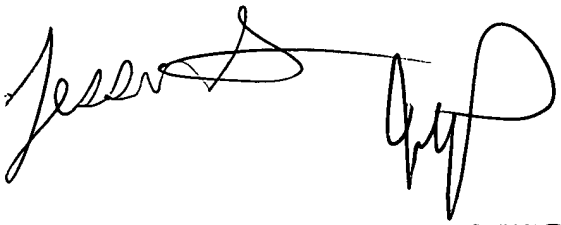
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica Stultz
Patent Examiner
AU 2873
March 21, 2005

JORDAN SCHWARTZ
PRIMARY EXAMINER